

Section c.) Remarks.

This reply is in response to the Office Action dated September 22, 2003.

Claims 9, 10 and 12 remain in the application. The rejections based on 37 CFR 1.75 and Section 112 should be withdrawn as they are now moot issues in view of the cancellation of certain of the claims and the amendments made in Claim 9 shown above. The pending claims however stand rejected on the basis of Kasprzak US 5,443,760 and Gee US 5,891,954 under Section 102(b), as well as under the judicially created doctrine of double patenting.

As pointed out in applicant's specification in Paragraphs [0005] and [0006], Kasprzak is directed to oil-in-water emulsions containing silicone polyethers, but the emulsions are mechanically prepared and not prepared by emulsion polymerization. While Gee is directed to a silicone oil-in-water emulsion prepared by emulsion polymerization, the silicone polyether in Gee is post added to the silicone oil-in-water emulsion. Gee also fails to teach the stability of such emulsions in the presence of salts and solvents. Claim 9 has been amended accordingly, i.e., being made more specific to the characterizing feature of emulsion polymerization, and being limited to salt and solvent as the components. In view of these differentiating features, it is not seen wherein Section 102(b) or the judicially created doctrine of double patenting any longer apply.

The Examiner is therefore requested to withdraw the rejections and pass the case to issue.

Respectfully submitted,

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